



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,428	10/24/2001	Kenneth J. Cool	450.323US1	4637

32719 7590 10/25/2002

GATEWAY, INC.
14303 GATEWAY PLACE
ATTENTION: MARK WALKER (MAIL DROP SD-21)
POWAY, CA 92064

EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 10/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
10/042,428	Kenneth J. Cool
Examiner Melur. Ramakrishnaiah	Art Unit 2643

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Aug 19, 2002
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4, 6-14, 16-23, and 25-30 is/are rejected.
- 7) Claim(s) 5, 15, and 24 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

Art Unit:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 12, 13, 20, 21, 22, 27-30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni et al. (US PAT: 6,141,058, hereinafter Lagoni) in view of Isaka (US PAT: 5,706,388) and Goldwasser et al. (US PAT: 5,241,428, hereinafter Goldwasser).

Regarding claim 1, Lagoni discloses a system for uninterrupted viewing of a real time program during a telephone call to a user comprising: a display capable of displaying caller identification data upon receipt of the call (col. 4 lines 4-9), a controller (110, fig. 1) capable of detecting acceptance and termination of the call by the user (col. 4 lines 10-17, also see step 530, fig. 5).

Regarding claims 12-13, and 20, Lagoni further discloses a system for providing uninterrupted viewing of a real time program during a telephone from a caller to a user, the system comprising: means for displaying caller identification information upon receipt of a call (col. 4 lines 4-9), means (110, fig. 1) for detecting acceptance and termination of the call by the user (col. 4 lines 10-17, also see step 530, fig. 5).

Art Unit:

Regarding claims 21-22, Lagoni further discloses an integrated system for providing for providing uninterrupted viewing of a real time program during a telephone from a caller to a user, comprising: a display in (158, fig. 1) capable of displaying the program and caller identification information upon receipt of the call (col. 4 lines 4-9), a speaker (136, fig. 1) capable of audio output for the program and the call (51-53), a microphone (not shown) capable of accepting audio input for the call, a user input device (125, fig. 1) for controlling the viewing of the program (col. 4 lines 41-43, col. 5 lines 61-63) and for accepting and terminating the call, controller (110, fig. 1) capable of detecting and termination of the call by the user (this step is implicit in view of step 530 in fig. 5).

Lagoni differs from claims 1, 12, 13, 20-22 in that he does not teach the following: a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.

However, Isaka discloses recording system which teaches the following: : a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing buffered program to the user upon the termination of the call (fig. 1, col. 3 lines 4-36) and Goldwasser discloses variable-delay recorder which teaches the following: providing buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.(col. 2 lines 65-68, col. 3 lines 1-5).

Art Unit:

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Lagoni's system to provide for the following: a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program as this arrangement would facilitate the user to accommodate temporary interruptions to the program being watched to take a telephone call and still catch up with the program after the telephone call is finished as taught by Isaka and Goldwasser, thus providing enhancements to the Lagoni's system.

Regarding claims 2-3, 27-30, Lagoni further teaches the following: display coupled to the buffer and further capable of displaying buffered program to the user (fig. 3, col. 4 lines 33-43), means (158, fig. 1) for displaying caller identification data from the incoming telephone call to assist the user in selecting whether to answer the incoming phone call, detecting means (110, fig. 1) further comprises displaying caller identification data from the incoming phone call when the caller identification data matches a predetermined list, the caller identification data displaying means otherwise not displaying the caller identification data, displaying caller identification data from the incoming phone call to assist the user in selecting whether to answer the incoming phone call, displaying caller identification data matches a predetermined list, the displaying means otherwise not displaying the caller identification data (fig. 5, col. 4 lines 55-67, col. 5 lines 1-18).

Art Unit:

3. Claim 4, 6-9, 14, 16-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Natori et al. (JP02001028645A, hereinafter Natori)

Regarding claims 4 and 14, the combination teaches the following: a memory for storing data about the call, the data including the caller identification data about the call (col. 4 lines 64-67 of ,’058); but it does not teach storing the length of the call.

However, Natori discloses information device which teaches storing length of call (see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for storing length of call as this arrangement would provide call history for the user for referencing it when required as taught by Natori.

Regarding claims 6-9 and 16-19, the combination teaches the following: capable of storing a caller list, the caller list being generated based on the stored data about the call, caller included in the caller list if the stored data about the call indicates that at least a predetermined percentage of the caller’s call were accepted by the user (this is implied by the priority caller list, note: col. 4 lines 19-32), caller identification is displayed only if the caller is included in the caller list, automatically accepting the call if the caller is included in the caller list (col 2 lines 1-9).

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Tsutsumi (JP406319173A).

Art Unit:

Regarding claim 10, the combination does not explicitly teach the following: input device for controlling viewing of the program and for accepting and terminating the caller by the user.

However, Tsutsumi discloses a remote controller serving as a telephone set which teaches the following: input device (3, fig. 1) for controlling viewing of the program and for accepting and terminating the caller by the user (see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: input device for controlling viewing of the program and for accepting and terminating the caller by the user as this arrangement would enable the user to answer the call without going to the place of handset by using the remote controller as taught by Tsutsumi.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Lund (US PAT: 6,342,270 B1, filed 7-13-1998).

Regarding claim 11, the combination does not teach the following: controller is further capable of automatically muting audio associated with the program upon acceptance of the call by the user.

However, Lund discloses system and coordination of electronic devices which teaches the following: controller is further capable of automatically muting audio associated with the program upon acceptance of the call by the user (col. 2 lines 36-48).

Art Unit:

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: controller is further capable of automatically muting audio associated with the program upon acceptance of the call by the user as this would enable the user to answer the telephone call without being distracted by television audio as taught by Lund.

6. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Shimada et al. (JP403178247A, hereinafter Shimada) and Tamura et al. (JP404112374A, hereinafter Tamura).

Regarding claims 25, the combination does not teach the following: voicemail system to handle incoming phone call in the event the user does not answer the incoming phone call.

However, Shimada discloses television communication equipment which teaches the following: voicemail system to handle incoming phone call in the event the user does not answer the incoming phone call (fig. 1, see abstract).

Regarding claim 26, the combination does not teach the following: voice mail system being disposed in a location selected from a group consisting of: integrated within the recording means, and external to recording means.

However, Shimada discloses voicemail system integrated with in the recording means (11, fig. 1) and Tamura teaches voicemail system external to the recording means in (11, fig. 1).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: voicemail system to handle

Art Unit:

incoming phone call in the event the user does not answer the incoming phone call as this arrangement would facilitate to record messages when user is unable to answer the call as taught by Shimada; voice mail system being disposed in a location selected from a group consisting of: integrated within the recording means, and external to recording means as this arrangement would facilitate storage facilities for messages at different locations to suite users requirements when the user is unable to answer the call as taught by Shimada and Tamura.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Schultheiss et al. (WO 99/35831, hereinafter Schultheiss).

Regarding claim 23, the combination does not teach the following: recording means comprises a structure selected from the group consisting of: set to box, a computer system, satellite receiver, a cable receiver, an Internet television box, a network client, and a television.

However, Schultheiss discloses method and systems for providing television related services via networked personal computer which teaches the following: recording means comprises a structure selected from the group consisting of: set to box, a computer system, satellite receiver, a cable receiver, an Internet television box, a network client, and a television (fig. 1, page 8 line 18 to page 9 line 15).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: recording means comprises a structure selected from the group consisting of: set to box, a computer system, satellite receiver, a

Art Unit:

cable receiver, an Internet television box, a network client, and a television as this arrangement would provide varied structure to control and record information as taught by Schultheiss, thus enhancing the usefulness of the system.

8. Claims 5, 15, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on Monday to Friday from 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

11. **Any response to this action should be mailed to:**

Art Unit:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 305-9508 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).



Melur. Ramakrishnaiah
Melur. Ramakrishnaiah

PATENT EXAMINER

Art Unit 2643.